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Staff report on consistency certifications submitted pursuant to the Coastal Zone Management Act of 1972 / Michael B. Wilmar.

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JUL 11 1979

UNIVERSITY OF CALIFORNIA

July 6, 1979

TO: All Commissioners and Alternates
FROM: Michael B. Wilmar, Executive Director

SUBJECT: STAFF REPORT ON CONSISTENCY CERTIFICATIONS SUBMITTED PURSUANT TO THE COASTAL ZONE MANAGEMENT ACT OF 1972 (For Commission consideration on July 19, 1979)

I. Summary

The United States Army proposes to lease* approximately 30 acres of property at the Oakland Army Base near the Oakland Outer Harbor in the City of Oakland, Alameda County, to the highest bidder. The area is not within the Commission's permit jurisdiction, but is within the area designated for port priority uses on Bay Plan Map No. 4. Because use of the area may affect the coastal zone, the leasing activity must be consistent with the Commission's Management Program. The purpose of this memorandum is to provide information about the site, describe the provisions of the Coastal Zone Management Act that are applicable, indicate the procedure that the Commission will use in acting on the request for concurrence with the consistency certifications, identify the policies that bear on the Commission's evaluation, and provide an environmental assessment. Attached to this staff report are four summaries of consistency certifications submitted by the bidders, upon which the public hearings will be held.

*NOTE: The Port of Oakland has requested the Federal Court to enjoin the Army from proceeding with the lease. The suit alleges that the Army has not followed certain Army regulations concerning lease procedures, has not complied with the National Environmental Policy Act, and has not complied with the Federal Coastal Zone Management Act of 1972. At this writing, the Court has not acted on the Port's request. The staff will advise the Commission of any Court determinations that affect the Commission's consideration of this matter.

II. Site

The 30-acre site is part of the approximately 560-acre area that constitutes the Oakland Army Base, known to the Army as the Military Ocean Terminal -- Bay Area. The base was acquired by the Army during World War II and is used primarily to ship military goods overseas. Portions of the base have become surplus to the Army's needs. For this reason, the Army wishes to lease the 30-acre area. The area to be leased is bounded principally by other portions of the base to the west, the Southern Pacific Railroad properties and lines to the east and south, and the East Bay Municipal Utility District's Sanitary District No. 1 Treatment Plant to the north (see Exhibit A). It consists primarily of open land, but also includes four warehouse buildings and some existing railroad trackage. Portions of the open area are now used for the storage and repair of containers and some of the warehouse area is now used for transfer and drayage operations.

III. Federal Coastal Zone Management Act

Because the proposed lease is considered a "federal license or permit" under the Federal Coastal Zone Management Act of 1972, as amended, the leasing of this area of the Army Base is, in the staff's opinion, subject to the so-called "consistency provisions" of the Federal Act. And because this will be the first time the Commission has been called upon to apply these provisions in an area outside its permit jurisdiction (the Commission has been routinely including consistency certifications in permits since the Management Program was approved in 1977), an explanation of the consistency provisions may be helpful.

Under Section 307 of the Federal Act, "any applicant for a required federal license or permit to conduct an activity affecting land or water uses in the coastal zone of [a] state" must submit a certification to the State that the proposed activity is consistent with the state's approved coastal zone management program. The state then has six months to concur with or object to the applicant's certification. If the state objects to the certification, the federal agency cannot issue the license, permit, or lease. The applicant may appeal the state's decision to the Secretary of Commerce, but the Secretary of Commerce can overrule the state objection only if the Secretary finds that the activity is consistent with the objectives of the Coastal Zone Management Act or "necessary in the interest of national security." The regulations issued by the Department of Commerce relating to appeals make it clear that appeals will be successful only in limited situations.

For purposes of the Federal Act, the Commission in its approved Management Program defined its segment of the California "coastal zone" to be the area of BCDC permit jurisdiction. However, the consistency provisions of the Federal Act do not apply only to activities "in the coastal zone"; the Act expressly provides that activities "affecting" the coastal zone must also be consistent. The staff believes that the leasing of portions of the Oakland Army Base is such an activity because the area to be leased lies within an area designated in the Bay Plan for port and related industrial uses.

The reason for this designation, as well as all the other port and industrial priority use designations in the Bay Plan (which is the core of the Commission's Management Program for the Bay), is to reduce future pressures for Bay fill by ensuring that shoreline areas particularly well-suited for the high priority, water-oriented uses identified in the Plan and the BCDC law were not preempted for other uses. Consequently, the staff believes that the future use of any portion of the Oakland Army Base designated for port and related industrial uses, even portions beyond the Commission's permit jurisdiction, may affect the "BCDC segment of the coastal zone" because non-port or related industrial uses will increase pressures to fill the Bay in the future.

IV. Procedure

To comply with the Coastal Zone Management Act, the Army has required bidders for a lease to all or portions of the property to submit a certification to the Commission stating that their proposed use of the property is consistent with the Management Program, in this case with the priority use designation. The Commission, in the Management Program, has stated it will handle consistency certifications using its normal permit procedures to the maximum feasible extent. At this meeting, therefore, public hearings are being held on the certifications from the four bidders for leases. A vote on whether to concur with or object to the certifications is tentatively scheduled for the meeting of August 16, 1979.

In voting, the Commission will not be deciding which activities are the "best" or the "most consistent" with the priority use designation. Rather, the Federal Act and the Management Program contemplate that the Commission will treat each certification as much as possible like an individual permit. Therefore, each certification should be considered and evaluated separately. In the event the Commission finds that more than one, or even all, of the proposed uses of the property would be consistent with the priority use designation, the final decision will be made by the Army.

V. Applicable Portions of the Management Program

A. Bay Plan. The following findings and policies in the Bay Plan as incorporated into the Management Program apply to all of the certifications:

1. Bay Plan Map No. 4, as amended November 18, 1971, designates the lease area for port priority use. A Plan Map Note states: "Oakland Army Base and Naval Supply Center - Some fill may be needed for Army Base. If and when not needed by military, first consider port and related industrial uses."

2. Bay Plan Findings and Policies on Ports (pages 19 and 20), in part, state:

"d. Planning for port terminals should be carefully coordinated with other shoreline uses, should consider the Ports of Sacramento and Stockton as part of the port system available to meet future needs, and should have as a major objective the avoidance of unnecessary Bay filling.

"5. It is possible that in the future, cargoes moving between the Orient and the East Coast of the U. S. will be shipped across the United States by special trains. This would tend to concentrate additional shipping volume in one port where special facilities would be available for transfer of cargoes between ships and the special trains. Any additional port facilities required for this method of transportation should be provided with as little Bay filling as possible.

"6. Port areas on the shores of the Bay should be able to include within their premises marine terminals and directly-related ancillary activities such as warehousing and other temporary storage, ship repairing, support transportation uses including trucking and railroad yards, freight forwarders, government offices related to the Port activity, chandlers and marine services. Other uses, especially public access and public and commercial recreational development, should also be permissible uses provided they do not significantly impair the efficient utilization of the port area."

B. BCDC Law. The following sections of the Government Code, as incorporated into the Management Program, also apply to all of the certifications:

"66602. The Legislature further finds and declares that certain water-oriented land uses along the bay shoreline are essential to the public welfare of the bay area and that such uses include ports, water-related industries, airports, wildlife refuges, water-oriented recreation and public assembly, desalinization plants and powerplants requiring large amounts of water for cooling purposes; that the San Francisco Bay Plan should make provision for adequate

and suitable locations for all such uses thereby minimizing the necessity for future bay fill to create new sites for such uses; that existing public access to the shoreline and waters of the San Francisco Bay is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided.

"66605. The Legislature further finds and declares: (a) That further filling of San Francisco Bay should be authorized only when public benefits from fill clearly exceed public detriment from the loss of the water areas and should be limited to water-oriented uses (such as ports, water-related industry, airports, bridges, wildlife refuges, water-oriented recreation and public assembly, water intake and discharge lines for desalinization plants and power generating plants requiring large amounts of water for cooling purposes) or minor fill for improving shoreline appearance or public access to the bay; (b) That fill in the bay for any purpose should be authorized only when no alternative upland location is available for such purpose; (c) That the water area authorized to be filled should be the minimum necessary to achieve the purpose of the fill; (d) That the nature, location and extent of any fill should be such that it will minimize harmful effects to the bay area, such as the reduction or impairment of the volume surface area or circulation of water, water quality, fertility of marshes or fish or wildlife resources; (e) That public health, safety and welfare require that fill be constructed in accordance with sound safety standards which will afford reasonable protection to persons and property against the hazards of unstable geologic or soil conditions or of flood or storm waters; (f) That fill should be authorized when the filling would, to the maximum extent feasible, establish a permanent shoreline; (g) That fill should be authorized when the applicant has such valid title to the properties in question that he may fill them in the manner and for the uses to be approved."

VI. Environmental Assessment

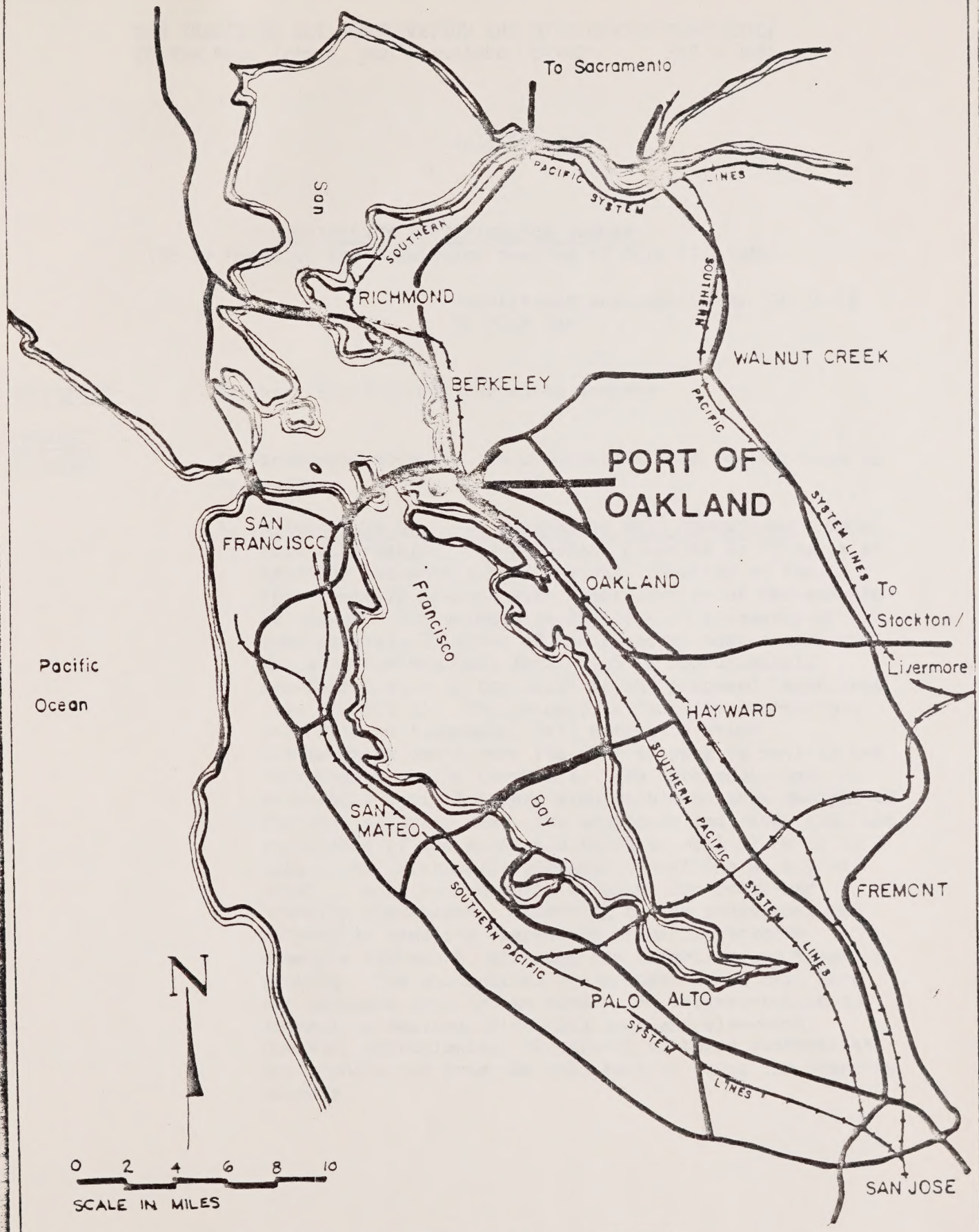
The Commission's decision to concur in, or object to, the leasing of portions of the Oakland Army Base may be a discretionary action for which an environmental determination must be made. Since no environmental documentation has been prepared on this action as yet, the Commission may be considered the Lead Agency under the California Environmental Quality Act (CEQA). The following environmental assessment, as required by the Commission's functional equivalency regulations, is provided.

A. Short- and Long-Term Effects. The open area has been used for container storage in the recent past and other types of similar industrial uses. It abuts rail lines which have been used for railroad purposes for some time. The warehouse areas are now and have been used for general drayage, transfer, packing, and storage purposes. The proposed projects of the four lessees would not significantly change the existing or past uses from the historical general industrial use of the area. The fairly short lease terms, from five to ten years, and the Army's right to take the area back upon a 24-hour notice make it unlikely that substantial construction or a change of use would occur without a substantial revision of the lease. The area does not now provide wildlife habitat for any important species. There are no structures of historical or social importance. If the area were to be used for a non-port purpose, a significant adverse effect would occur in that further fill in the Bay to provide needed port facilities would be more likely to occur. Some energy would be consumed by railroad operations or by container storage and transfer. It appears, however, energy consumption would be relatively small. Minor air pollution would also result due to truck and rail operations. In the staff's opinion, there would be no significant adverse effects on the environment provided that the use is restricted to a port use as described in the Bay Plan.

B. Mitigation Measures. There appears to be little or no adverse environmental impacts to mitigate. The Commission's concurrence in the consistency certifications should provide that the uses and activities to occur within the leased lands will conform to the Management Program. If necessary, conditions could be placed in the Army's lease to ensure that the uses and activities occurring on the leased lands are limited to those found consistent by the Commission.

C. Reasonable Project Alternatives. Reasonable project alternatives include (1) continuation of the existing uses, (2) no project, (3) a more permanent or more intense type of industrial development, or (4) a different use, such as commercial, office, recreational or residential. A continuation of the existing uses and activities would not provide any of the benefits of the proposed lease, while having approximately the same environmental effects. A more permanent or more intense type of development project within the lease areas would have more significant effects on the environment and would not be consistent with the Army's requirements. A different use would be inconsistent with the Bay Plan's designation for the site. The four proposals being reviewed by the Commission for consistency with the Management Program further offers the Army a choice of reasonable alternative uses of the lease areas.

D. Irreversible Environmental Changes Caused by the Commission's Action. Concurrence in, or objection to, the certifications of consistency on any of the proposed bids would not appear to cause an irreversible environmental change.



SAN FRANCISCO BAY AREA

EXHIBIT A

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
30 Van Ness Avenue, San Francisco 94102 557 - 3686

July 6, 1979

CONSISTENCY CERTIFICATION SUMMARY
(To be heard at the Commission meeting of July 19, 1979)

Consistency Application No. CC 16-79
No 90th Day

PROPONENT: Southern Pacific Transportation Company

PROJECT DETAILS: The proponent proposes two alternative uses for the area to be leased:

1. Alternative No. 1 -- Automobile Rail Operations. Under this alternative, the proponent proposes to relocate an existing automobile handling rail facility to the approximately 26-acre open space portion of the area to be leased. The automobile facility is presently on approximately 35 acres of the 79 acres that constitute the West Oakland Rail Yard which is approximately one-fourth mile to the south of the proposed lease area (see Exhibit A). The automobile facility shares this yard with an intermodal rail operation which accommodates containers that are shipped by rail to and from nearby marine terminals. The intermodal and automobile facilities are also within an area designated for port priority use. The proponent indicates that the relocation of the automoble facility will allow it to expand the intermodal-container operations at a yard which is more conveniently arranged for container transfer operations. According to the proponent, the automobile handling operations primarily involve domestic transport, although the import/export trade is growing. The automobiles are brought in on rail cars and unloaded onto trucks mostly for transportation to automobile dealers in the Bay Area and elsewhere. However, approximately 10 percent of these automobiles are transferred from the rail cars to ships for overseas markets.

2. Alternative No. 2 -- Intermodal-Container Operations. Under this alternative, the proponent states that it would move all of its present intermodal-container operations, which cover containers arriving or departing by seagoing vessels, to the proposed lease area. The automobile handling facility would then remain in its present location. Therefore, according to the proponent, the remaining unused portion of the Army's Middle Harbor Road property would be used for further expansion of container operations (see Exhibit B).

According to the proponent, it favors Alternative No. 1 because it believes that this arrangement will allow for the quickest and most efficient use of both its automobile and intermodal-container operations. However, Alternative No. 2 is being submitted for consideration only if Alternative No. 1 is found to be inconsistent with the Commission's Management Program.

Under both alternatives, the proponent plans to pave with asphalt the 25.7 acres of vacant land and make only minor modifications to existing rail lines. Existing buildings and trackage will remain. The entire area will be fenced and its perimeter lighted for security purposes. These minimum improvements will allow immediate return to and usage by the Army in the event the property is required due to a national emergency. The warehouses would be used or subleased for use as general warehouses.

USE AND NEED:

The proponent states that the West Oakland Yard is a major rail terminal where inbound and outbound, local and transcontinental trains are handled. The operations in West Oakland also include the Intermodal Terminal (a facility that processes containers and trailers in or off rail cars to ships at the Port of Oakland). The proponent states that the additional land available for lease is essential to permit expansion of the present container handling facility to meet the future needs of a growing, port-oriented container traffic. The proposed lease area will allow expansion of the proponent's intermodal operations from 35 acres of land to 79 acres of land under Alternative No. 1, or to 65 acres of land under Alternative No. 2.

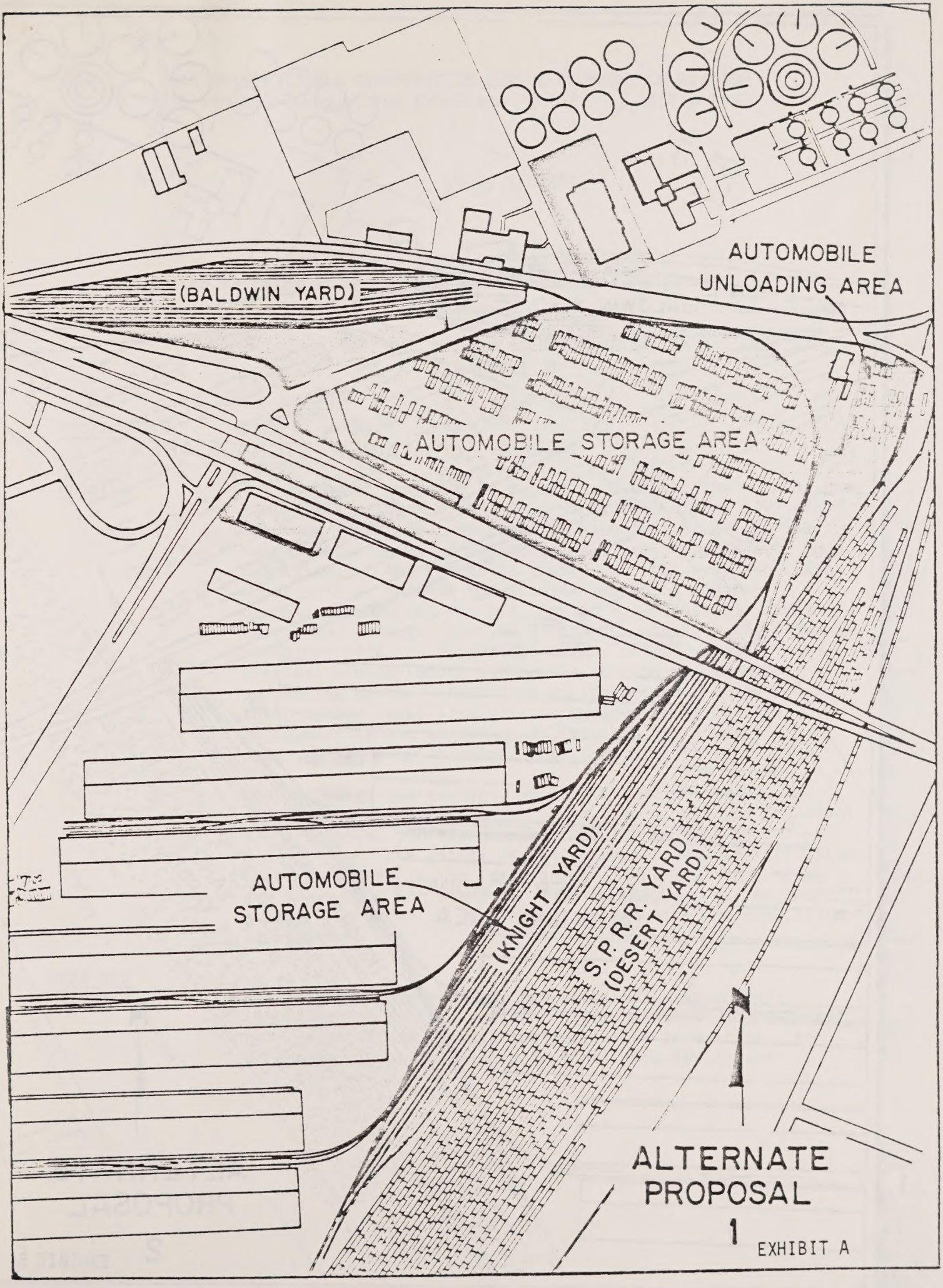
PROPONENT'S CONSISTENCY CERTIFICATION:

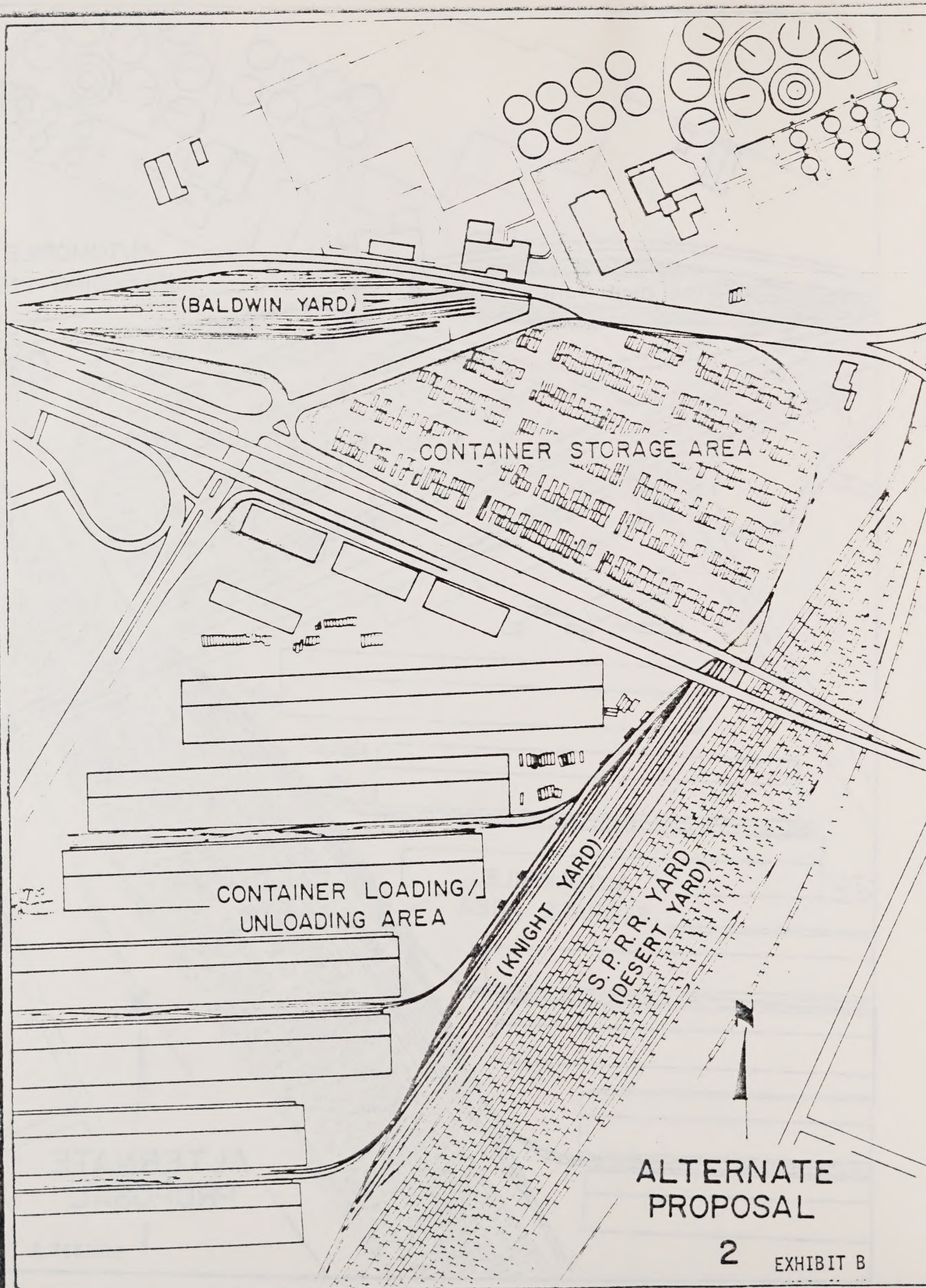
The proponent states that the proposed uses of the lease area are consistent with the Commission's Management Program because:

1. The proposed use is already existing within the port-priority site and the activity is simply being relocated to make way for an expanded Intermodal Facility;

2. The proposed activities are ancillary activities directly related to both the railroad operation and the port operation and is similar to the Port's existing automobile handling and container handling facilities on nearby Port property; and

3. The proposed activity will require no filling and will provide additional acreage of property directly related to port activities, which should reduce pressures for further fill at the Port of Oakland.


AUTOMOBILE
UNLOADING AREA
(BALDWIN YARD)
AUTOMOBILE STORAGE AREA
AUTOMOBILE
STORAGE AREA
(KNIGHT YARD)
S.P.R.R. YARD
(DESERT YARD)
ALTERNATE
PROPOSAL
1
EXHIBIT A



ALTERNATE
PROPOSAL
2

EXHIBIT B

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
30 Van Ness Avenue, San Francisco 94102 557 - 3686

July 6, 1979

CONSISTENCY CERTIFICATION SUMMARY
(To be heard at the Commission meeting of July 19, 1979)

Consistency Application No. CC 23-79
No 90th Day

PROPONENT: Port of Oakland

PROJECT DETAILS: The proponent proposes to sublease to others the bulk of the land areas offered by the Army for a term of ten (10) years in order to develop container back-up facilities for its nearby existing waterfront terminals (see Exhibit A). More specifically, the proponent states that the proposed lease areas will be devoted to container shipping support operations such as, but not limited to: container/chassis repair and storage; problem deliveries storage; off-terminal container yard for intermodal cargo; cargo assembly; bonded storage; export/import automobile storage and assembly; and processing center. According to the proponent, the use of the proposed lease area will be managed to allow some adjustment in use according to the changing needs of the water carriers and terminal operators at Port facilities.

The proponent states that, where required for tenant's operations, surfaces will be paved with asphalt or improved as hardstands. No new permanent buildings will be constructed. The nature of the container-related activities to be performed in the lease areas insure that such areas can be vacated and ready for Army contingency use on short notice. No major or significant construction or demolition is planned.

USE AND NEED: The proponent states that "the scarcity of waterfront locations for further container terminal development makes the intensive use of existing facilities imperative. An effective way of increasing terminal capacity is the

relocation of support activities to nearby upland sites, releasing valuable container yard space at the waterfront for increased shipside operations. Open storage areas near marine terminals are also very important to motor carriers and other industries which directly support the waterfront operations."

By relocating the support activities, the proponent believes that the capacity and efficiency of existing container terminals will be increased. Furthermore, the use of the proposed lease area will alleviate some congestion problems currently existing at Port terminals and will provide valuable support to the waterfront facilities. The proponent believes, therefore, that the use of the proposed lease area will reduce to some extent the demand for new port facilities and Bay fill.

PROPONENT'S CONSISTENCY CERTIFICATION: The proponent states that the proposed uses of the lease area are consistent with the Commission's Management Program because:

1. The proposed activities are directly-related ancillary facilities to marine terminals at the Port of Oakland;

2. The relocation of these activities from existing waterfront locations will better allow for efficient container operations, a new method of cargo handling which requires exceptionally large, specially-designed terminals and supporting transportation facilities;

3. The ability to lease the areas offered by the Army will reduce the pressure for port expansion in areas which require Bay fill, and the proposed activities will require no filling; and

4. The proposed use of portions of the Oakland Army Base that are not needed by the military is for direct port support purposes related to container cargo operations.

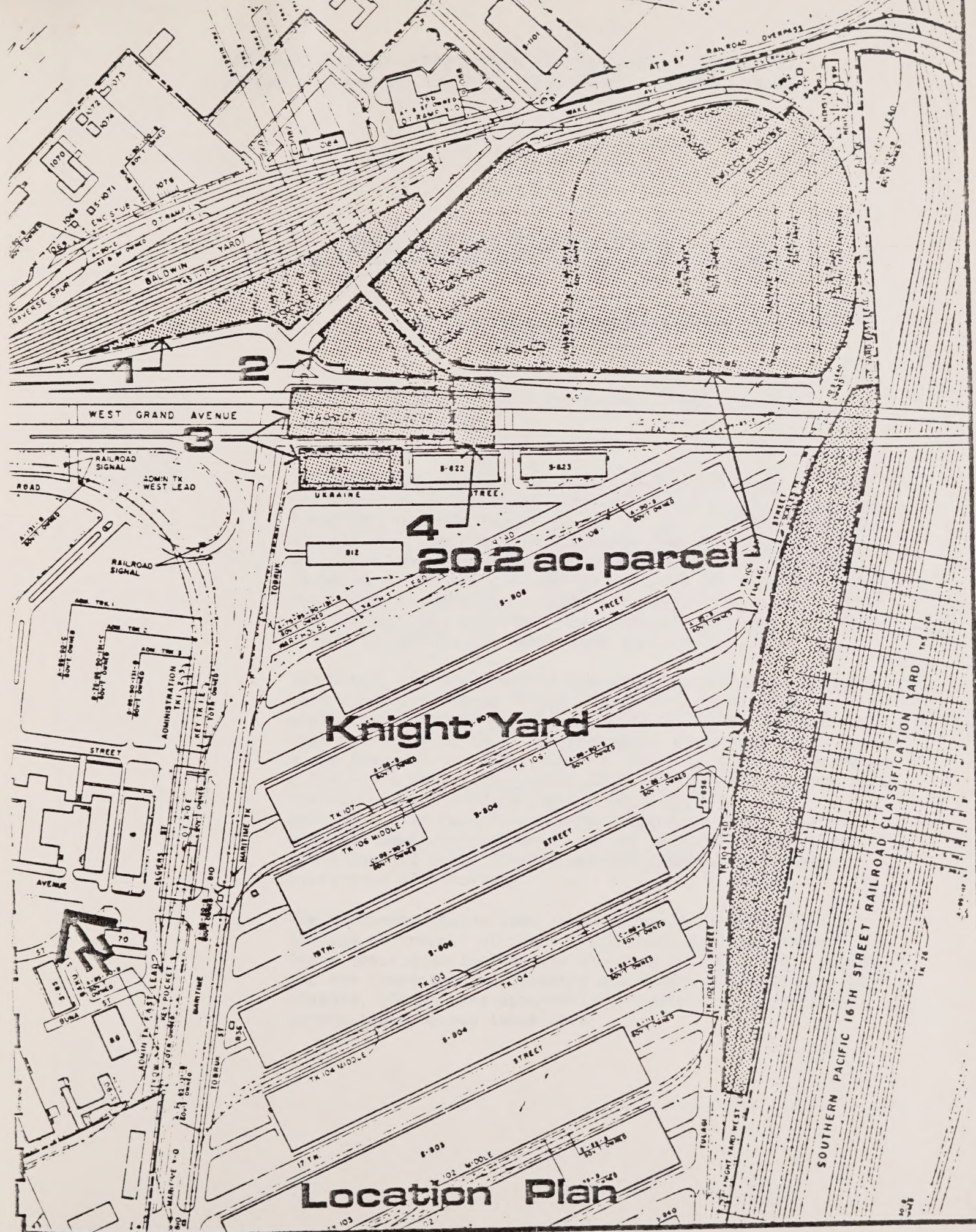

WEST GRAND AVENUE
20.2 ac. parcel
Knight Yard
Location Plan
SOUTHERN PACIFIC 16TH STREET RAILROAD CLASSIFICATION YARD
BALDWIN YARD
RAILROAD SIGNAL
ADMIN TK WEST LEAD
ADMIN TK EAST LEAD
ADMINISTRATION TK
MARITIME TK
TOBRUK ST
UKRAINE STREET
STREET
AVENUE
1
2
3
4

EXHIBIT A

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
30 Van Ness Avenue, San Francisco 94102 557 - 3686

July 6, 1979

CONSISTENCY CERTIFICATION SUMMARY
(To be heard at the Commission meeting of July 19, 1979)

Consistency Application No. CC 24-79
No 90th Day

PROPONENT: Restore Container Repair and Storage Company, a Division of Circle Pacific, Inc.

PROJECT DETAILS: The proponent proposes to lease a 3.63-acre parcel of land (referred to in the lease bids as Items 1 and 2) within the total 30-acre area being offered for lease by the Army (see Exhibit A). The proposed 3.63-acre lease area consists wholly of open hardstand area within which the proponent proposes to install and use two trailers for offices and five storage sheds for equipment and supplies, all of which are mobile. The proponent also proposes to erect a 7,200-square-foot pre-fabricated shed on the site.

Currently, the proponent is operating on six acres of open land within the total 30-acre lease area being made available by the Army. According to the proponent, it has been operating at that location under a month-to-month lease since February 1, 1978. When its existing area is leased on a long-term basis along with other portions of the Army Base (Restore is not bidding for its existing site), the proponent will have to relocate. The proposed 3.63-acre site is immediately adjacent to the proponent's existing operation and would involve minimal problems and costs associated with moving.

The proponent states that it is primarily engaged in the storage and repair of ocean cargo containers and chassis. Other activities include the stacking of chassis for export and the inspection of incoming and outgoing containers and chassis. These uses apparently are proposed to continue within the proposed lease area.

USE AND NEED:

According to the proponent, its services are essential to the steamship community and a close location to the individual ocean terminals is of major importance. By providing space for storage, the proponent states that it relieves congested terminals and that frequently terminal operators use the proponent's facilities as back-up space. The proponent also provides the only storage space for chassis equipment needed by the shipping industry. The proponent states that the close proximity of the proposed lease area to terminal facilities will facilitate the handling of container and chassis movement in and out of the Port of Oakland.

PROPONENT'S CONSISTENCY CERTIFICATION:

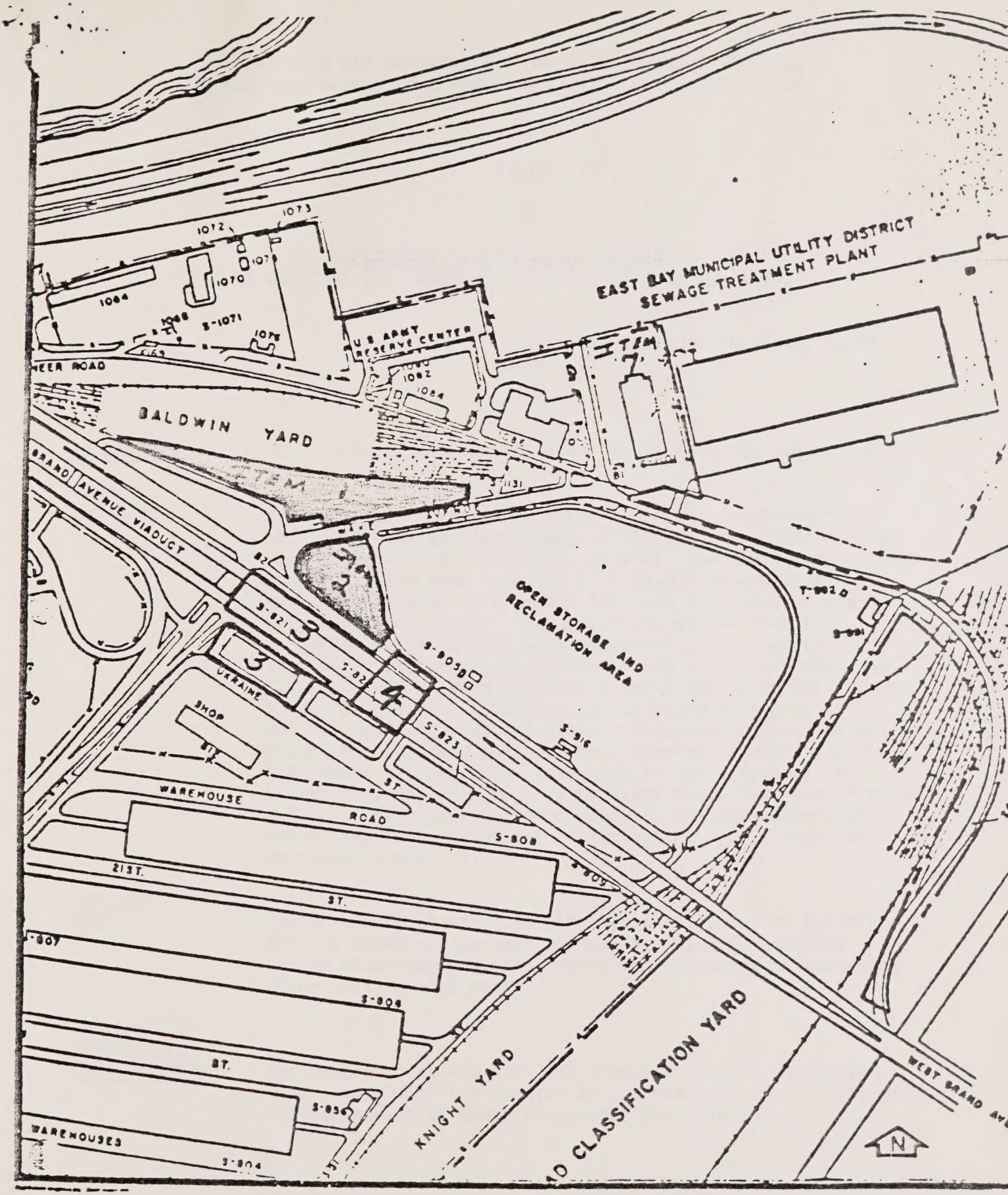
The proponent states that the proposed uses and activities to be placed within the lease area are consistent with the Commission's Management Program because:

1. The proposed uses and activities are directly related ancillary operations of the Port of Oakland;

2. The proposed facilities will enjoy an ideal location in close proximity to the Port and other port-related facilities and will reduce the necessity of Bay fill;

3. In providing the proposed facilities, the proponent's operation will absorb the overflow from port areas and cargo freight services, thereby relieving congestion and allowing the terminals to provide quicker and more efficient maritime services; and

4. The proponent's operation will include emergency repair facilities for cargo containers damaged in handling and storage and for other necessary port-related activities.



Site Location Map

NOTE: ITEMS - 5 - 6 - West END of BASE EXHIBIT A

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
30 Van Ness Avenue, San Francisco 94102 557 - 3686

July 6, 1979

CONSISTENCY CERTIFICATION SUMMARY
(To be heard at the Commission meeting of July 19, 1979)

Consistency Application No. CC 25-79
No 90th Day

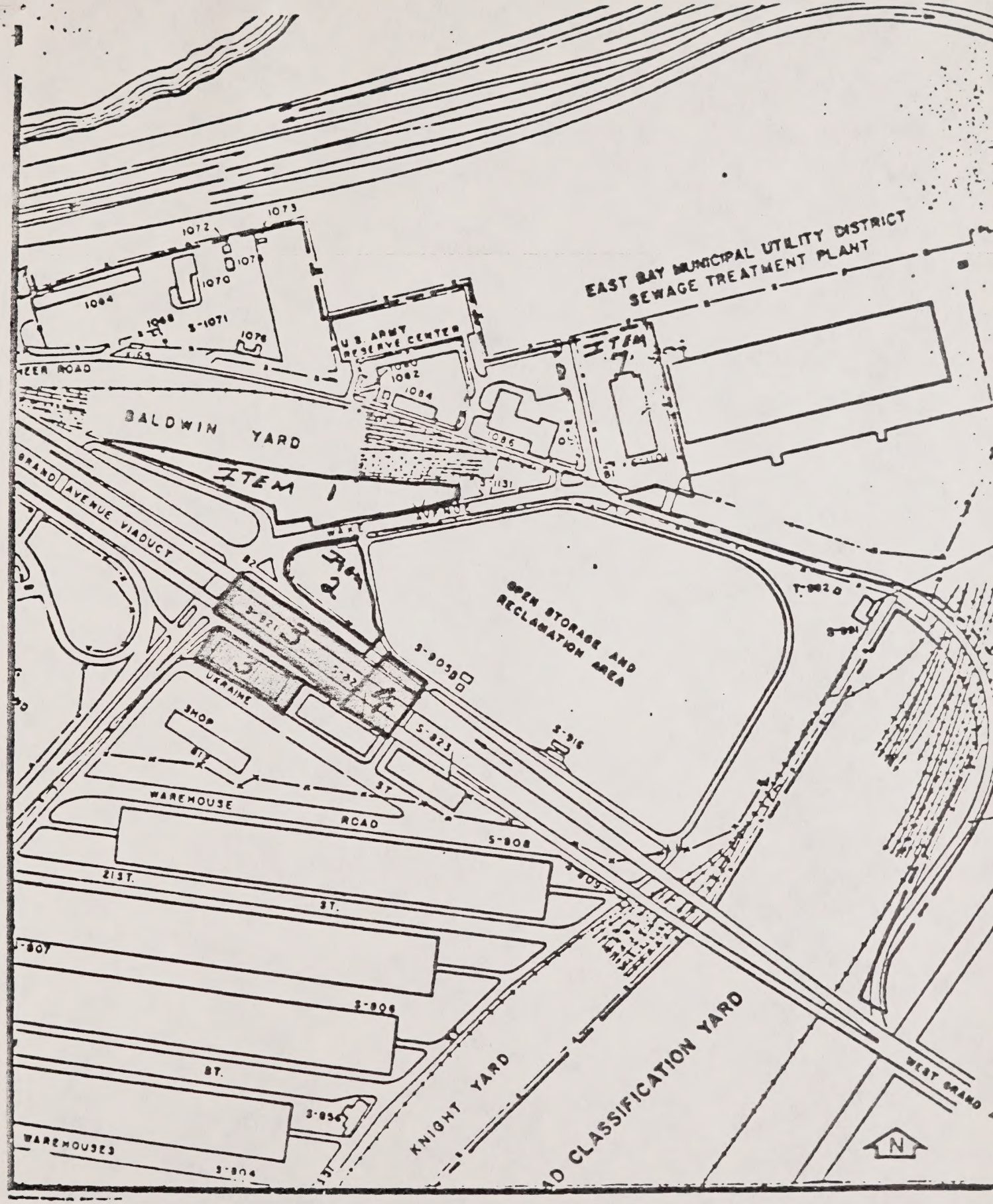
PROPONENT: U. C. Moving Services (an agent for Global Van Lines)

PROJECT DETAILS: The proponent proposes to lease a portion (referred to in the lease bids as Items 3 and 4) of the total 30-acre lease area being made available by the Army (see Exhibit A). The proposed lease area consists of a 20,000-square-foot warehouse (listed as Building 821) and 3.7 acres of open hardstand area nearby. The proponent states that the warehouse building will be used strictly as a storage facility. The proponent currently has a contract with the U. S. Customs Service to provide warehouse space for inbound bonded shipments. This work is now being performed at Building 822 (located immediately adjacent to Building 821), which the proponent occupies on a five-year lease with the Department of the Army. According to the proponent, the hardstand areas will be used to store containers and to park vehicles that are required to support the above-mentioned activities. The proponent is requesting a five-year lease for these areas.

USE AND NEED: The proponent states that with the acquisition of Building 821, it hopes to increase its capabilities in handling bonded shipments and also expand its operation to encompass other port-related work.

PROPONENT'S CONSISTENCY CERTIFICATION: The proponent states that the proposed uses of the lease area comply with the Coastal Zone Management Act of 1972 and the Department of Commerce Coastal Zone Management Act

consistency regulations because "the intended uses are directly related to the activities of the Port and are necessary functions of the operations of the marine terminal, and therefore are consistent with BCDC's Management Program."



Site Location Map

NOTE: ITEMS - 5 - 6 - West END of BASE EXHIBIT A

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